

**Internal Revenue Service**  
P.O. Box 2508  
Cincinnati, OH 45201

**Department of the Treasury**

Release Number: **201808023**  
Release Date: 2/23/2018  
Date: November 28, 2017

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**LEGEND:**  
X= scholarship  
Y = company

**UIL:**  
4945.04-04

Dear :

You asked for advance approval of your employer-related scholarship grant procedures under Internal Revenue Code Section 4945(g). This approval is required because you are a private foundation that is exempt from federal income tax. You requested approval of your scholarship program to fund the education of certain qualifying students.

**Our determination**

We approved your procedures for awarding employer-related scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding employer-related scholarships meet the requirements of Code Section 4945(g)(1). As a result, expenditures you make under these procedures won't be taxable.

Also, awards made under these procedures are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provided in Code Section 117(b)).

**Description of your request**

You will operate an employer-related scholarship program called X. The purpose of X is to award one scholarship per year to a child of a current employee of Y to attend a post-secondary educational institution. The maximum amount of X will be determined by your trustees each year and is not renewable. X will be publicized on Y's intranet website or by any other appropriate method.

X will not be used as an inducement for employment or recruitment for Y, and there will be no commitments or understandings that the studies are for the benefit of you or Y. There will also be no requirement, condition or suggestion, express or implied, that the recipient's parent is expected to render future employment services for you or Y. X will not be terminated if the recipient's parent terminates employment with Y subsequent to

the awarding of the grant, regardless of the reason for such termination of the employment.

To be eligible the applicant must:

- a. Be the child of a current employee of Y with three or more years of service;
- b. Be in their sophomore, junior or senior year at a certified, post-secondary education institution;
- c. Have a current GPA greater than 3.0;
- d. Submit a current resume or curriculum vitae;
- e. Submit 1-3 recommendations from current/past instructors; and
- f. Submit an essay of no longer than 300 words about why they should be considered for X

The recipient will be chosen by an independent selection committee consisting of at least two members who are knowledgeable in the education field and must have secondary or post-secondary education experience. The independent selection committee will not have any members who are current or former employees of Y or were your current or former trustees.

The number of grants awarded each year will not exceed 25 percent of the number of employees' children who, (i) were eligible, (ii) were applicants for such grants, and (iii) were considered by the selection committee in selecting the recipients of grants in that year, or 10 percent of the number of employees' children who can be shown to be eligible for grants (whether or not they submitted an application) in that year.

You will give the scholarship funds directly to the recipient's educational institution to be applied to the student's tuition bill. Funds may be applied by the educational institution to any qualified tuition as defined in IRC Section 117(b)(2). The educational institution will be instructed to refund to you any unused scholarship funds.

The educational institution will be required to provide financial records and correspondence showing disbursement of scholarship funds. You will keep all records related to X in accordance with your record retention policy. If there is reason to believe that funds have been misappropriated you will investigate the claims with the help of the school's Bursar's office.

### **Basis for our determination**

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code Section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that meets all of the following requirements of Code Section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.

- The grant is a scholarship or fellowship subject to Code Section 117(a).
- The grant is to be used for study at an educational organization described in Code Section 170(b)(1)(A)(ii).

Revenue Procedure 76-47, 1976-2 C.B. 670, provides guidelines to determine whether grants a private foundation makes under an employer-related program to employees or children of employees are scholarship or fellowship grants subject to the provisions of Code Section 117(a). If the program satisfies the seven conditions in Sections 4.01 through 4.07 of Revenue Procedure 76-47 and meets the applicable percentage tests described in Section 4.08 of Revenue Procedure 76-47, we will assume the grants are subject to the provisions of Code Section 117(a).

You represented that your grant program will meet the requirements of either the 25 percent or 10 percent percentage test in Revenue Procedure 76-47. These tests require that:

- The number of grants awarded to employees' children in any year won't exceed 25 percent of the number of employees' children who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants, or
- The number of grants awarded to employees' children in any year won't exceed 10 percent of the number of employees' children who were eligible for grants (whether or not they submitted an application), or
- The number of grants awarded to employees in any year won't exceed 10 percent of the number of employees who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants.

You further represented that you will include only children who meet the eligibility standards described in Revenue Procedure 85-51, 1985-2 C.B. 717, when applying the 10 percent test applicable to employees' children.

In determining how many employee children are eligible for a scholarship under the 10 percent test, a private foundation may include only those children who submit a written statement or who meet the foundation's eligibility requirements. They must also satisfy certain enrollment conditions.

You represented that your procedures for awarding grants under this program will meet the requirements of Revenue Procedure 76-47. In particular:

- An independent selection committee whose members are separate from you, your creator, and the employer will select individual grant recipients.
- You will not use grants to recruit employees nor will you end a grant if the employee leaves the employer.
- You will not limit the recipient to a course of study that would particularly benefit you or the employer.

**Other conditions that apply to this determination:**

- This determination only covers the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures don't differ significantly from those described in your original request.
- This determination is in effect as long as your procedures comply with Sections 4.01 through 4.07 of Revenue Procedure 76-47 and with either of the percentage tests of Section 4.08. If you establish another program covering the same individuals, that program must also meet the percentage test.
- This determination applies only to you. It may not be cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes to your program to the Cincinnati Office of Exempt Organizations at:

Internal Revenue Service  
Exempt Organizations Determinations  
P.O. Box 2508  
Cincinnati, OH 45201

- You cannot award grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.
- All funds distributed to individuals must be made on a charitable basis and further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code Section 170(c)(2)(B).
- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

Please keep a copy of this letter in your records.

If you have questions, please contact the person listed at the top of this letter.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements